

# Calendar No. 1941

86TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
No. 1870

## RAYMOND BAURKOT

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AUGUST 22, 1960.—Ordered to be printed

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Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

### R E P O R T

[To accompany H.R. 6767]

The Committee on the Judiciary, to which was referred the bill (H.R. 6767) for the relief of Raymond Baurkot, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of the proposed legislation is to waive the limitations of section 208 of Public Law 85-859 of the 85th Congress (72 Stat. 1432) and any other provision of law so as to permit Raymond Baurkot of Easton, Pa., to file his claim for a refund of taxes on a quantity of beer condemned and destroyed as the result of a flood which occurred on August 19, 1955, have that claim considered in accordance with the balance of the provisions of said section 208, and authorize the payment of the claim if it is found to qualify under those provisions. The claim referred to in the bill would be required to be filed within 6 months of the effective date of the act.

#### STATEMENT

The facts and conclusions regarding this claim are contained in House Report 1949 on H.R. 6767, and are as follows:

The evidence before this committee shows that on August 19, 1955, the city of Easton, Pa., suffered from an extensive flood. This flood originated as a flash flood in the Pocono Mountains and caused widespread destruction in that area.

The feeder streams, swollen to unprecedented heights, emptied into the Delaware River which flows through Easton, Pa., with the result that the Delaware River was 83 inches above the previous record flood level set in 1903, and the flood crest was measured at 43 feet. Great areas of Easton were flooded, business areas were inundated, homes were lost, and power and communication lines were broken.

The quantity of beer with which this bill is concerned had to be destroyed because the contaminated floodwater had inundated the warehouse in which it was stored. There was widespread fear that the muddy waters would contaminate the food and beverage supplies of the area with serious health consequences to the people of the area. Therefore, strict measures were instituted to bar the use of such supplies. It was in connection with these efforts that the quantity of beer referred to in this bill was condemned and destroyed.

As is noted in the Treasury Department report, the refund due Mr. Baurkot for the beer destroyed in this manner amounted to \$382.10 for the taxes he paid on the beer prior to its condemnation and destruction. It must be noted that the Treasury Department does not in any way contest the fact of the destruction, nor does the Treasury Department question the fact of the payment of the taxes involved. Rather, that Department questions relief because Mr. Baurkot's claim was filed some 14 days after the 6-month period originally fixed in the law. Furthermore, the evidence indicates that Mr. Baurkot was misled by erroneous information from an employee of the Internal Revenue Service in Easton concerning his rights to apply for refund. This committee feels that the position of the Treasury ignores the emergency character of the events surrounding the matter of the destruction of the quantity of beer, and further applies too strict a view concerning the lack of proper guidance given Mr. Baurkot in connection with the filing of his claim. Accordingly, the committee recommends that the bill be considered favorably.

The committee concurs in the action of the House of Representatives on this legislation and, therefore, recommends that the bill, H.R. 6767, be considered favorably.

Attached hereto and made a part hereof is the report submitted to the House Judiciary Committee by the Secretary of the Treasury on H.R. 6767.

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OFFICE OF THE SECRETARY OF THE TREASURY,  
Washington, August 17, 1959.

Hon. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,*  
*House of Representatives, Washington, D.C.*

MY DEAR MR. CHAIRMAN: This is in response to your request of April 30, 1959, for this Department's views on H.R. 6767 (86th Cong., 1st sess.) entitled "A bill for the relief of Raymond Baurkot."

H.R. 6767 would provide that, notwithstanding the limitations contained in section 208 of Public Law 85-859 or any other provision of law, Raymond Baurkot, of Easton, Pa., may file a claim for refund of taxes on beer condemned and destroyed as the result of a flood on August 19, 1955, within 6 months after enactment. The bill would provide that such claim shall be considered in accordance with the balance of the provisions of said section 208 and shall be paid if the claim is found to qualify under those provisions.

The records of the Internal Revenue Service disclose that on March 16, 1959, Mr. Baurkot, a wholesale dealer in beer, filed a claim for refund in the amount of \$382.10 for taxes paid on beer destroyed as the result of a flood occurring on or about August 19, 1955, in Northampton County, Pa. Mr. Baurkot's claim was disallowed because not filed within the time prescribed by law.

Section 208 of the Excise Tax Technical Changes Act of 1958, which was enacted on September 2, 1958, provided retroactive relief in the case of internal revenue taxes paid on alcoholic liquors lost by reason of a major disaster occurring in the United States after December 31, 1954, and not later than September 2, 1958. Among the many requirements and limitations of section 208 is the provision that no claim shall be allowed unless filed within 6 months after September 2, 1958. This period expired on March 2, 1959.

This Department is not aware of any reason justifying the claimant's failure to file his claim within the statutory period. The Department realizes, of course, that there are always cases where some persons fail to ascertain their rights and privileges after enactment of legislation. However, the statute of limitations, which Congress has included in the internal revenue system as a matter of sound policy, is essential in order to achieve finality in tax administration. Efficient administration of the tax laws is dependent upon continuous meeting of legal deadlines. In the absence of special circumstances, which do not appear here, granting special relief would discriminate against other taxpayers similarly situated and would create an undesirable precedent.

In view of the foregoing, the Treasury Department is opposed to the enactment of H.R. 6767.

The Bureau of the Budget has advised the Treasury Department that there is no objection to the presentation of this report.

Sincerely yours,

DAVID A. LINDSAY,  
*Assistant to the Secretary.*

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